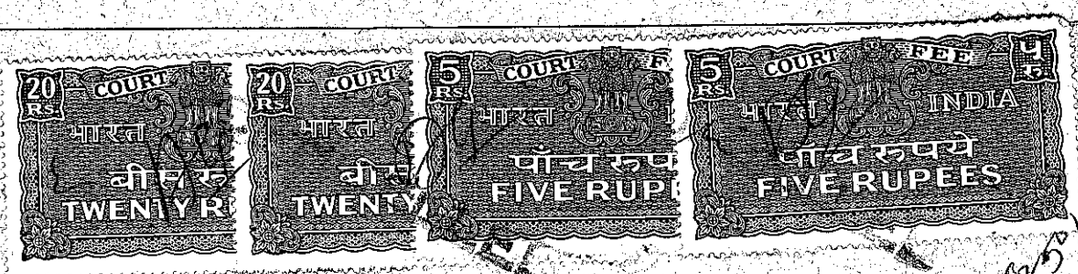

CF0000110056

IN THE HIGH COURT OF MADHYA PRADESH AT : JABALPUR.

Misc. Petition No. 2735 of 1992.

Petitioner : 1. State of Madhya Pradesh through, ~~(1)~~ Executive Engineer, Public Health Engineering Division, Nal Ghar, RAIPUR.

2. ~~(ii)~~ Assistant Engineer, Public Health Engineering, Project SubDivision No.2, 74, Anand Nagar, RAIPUR.

V e r s u s

Respondents: 1. Presiding Officer, Labour Court, D U R G .

2. Motilal Kahar, S/o Anand Singh Kahar, C/o Sobhana Kirana Stores, Mathpurena, Post-Mathpurena, District, R A I P U R.

PETITION UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA

12/90

Filed on 31-12-92
by Shri P.C. Patkar
Advocate

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 2735/98 **सन् 200**

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

28.6.2005

Shri Arun Sao, Deputy Govt. Advocate for the petitioners.

Shri Pankaj Shrivastava, counsel for the Respondent No.2.

Heard.

The present petition has been filed against the order dated 4.3.1992 passed in Case No. 14/91 - I.D.Act (Ref.) by the Presiding Officer Labour Court, Durg, directing the reinstatement of the Respondent No.2 to the service with 50% back wages.

The brief facts of the case are that the Respondent No.2 was appointed as Chowkidar in the year 1976, thereafter he was promoted to the post of Timekeeper in the year 1978. The Respondent No.2 remained absent on 3.12.1983 without permission of the petitioner, therefore the petitioner terminated his service vide order dated 3.12.1983 itself without issuing show cause notice or holding an enquiry. The case of the Respondent No.2 is that he fell sick all of a sudden as such he could not join the services and remained absent for two day i.e. 3rd and 4th December, 1983.

Learned Labour Court after having considered the arguments of both the parties came to the conclusion that the order of termination was disproportionate to the misconduct alleged by the petitioner. The Labour Court

(पीछे देखिये)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

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accordingly set aside the order of termination and directed to reinstate the Respondent No.2 in the service with 50% back wages. Learned counsel for the petitioner submits that remaining absent from one day amounts to misconduct and this is sufficient ground to terminate the service of the Respondent No.2 without holding an enquiry.

Learned counsel for the respondent No.2 submits that the petitioner had not waited even for one day and terminated the service of the Respondent No.2 on the very first day when the Respondent No.2 failed to join the duties on account of his illness. The petitioner has not issued any show cause notice or has not conducted any departmental enquiry before imposing extreme penalty of termination from service. According to learned counsel for the Respondent No.2 the punishment is shockingly disproportionate to the alleged misconduct. He further submits that the order passed by the Labour Court was just and legal.

After considering the contentions of both the parties I am of the view that this is one of the cases where the punishment of termination was shockingly disproportionate to the alleged misconduct in view of the fact that the Respondent No.2 remained absent from service only for two days and on the very first day the petitioner had taken extreme steps of termination from service without issuing show cause notice or holding an enquiry. No opportunity of

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.....विरुद्ध.....

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hearing was given; as such this also amounts to violation of the principles of natural justice.

In the above circumstances the Labour Court was right in directing the reinstatement of the service with 50% back wages. There is no point to interfere with the award passed by the Labour Court in the facts of the case.

Accordingly, the petition stands dismissed.

In view of the peculiar facts and circumstances of the case, no order as to costs.

Sd/-
Satish K. Agnihotri
Judge

(पीछे देखिये)